

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

UNITED STATES OF AMERICA,)
)
)
Plaintiffs,) Criminal No. 2010-36
v.)
)
FRANCIS BROOKS, et al.,)
)
Defendants.)
)

**REPORT AND RECOMMENDATION
ON MOTION TO MODIFY CONDITIONS OF BAIL AND
TO TRAVEL FOR MEDICAL TREATMENT**

This matter is before the Court on defendant Francis Brooks' motion¹ to modify the conditions of his release pending sentencing, to permit him to travel to Florida for medical evaluation. The matter was referred to the undersigned for a hearing and argument on the motion to modify conditions of release, and such hearing took place on March 14, 2012. At that time, defendant presented (1) a letter dated March 12, 2012 from his treating physician, Dr. Tai Hunte, regarding defendant's condition and the need for additional evaluation off-island (Exhibit A),² and (2) a copy of a confirmation of an appointment for defendant at the Cleveland Clinic in Florida scheduled for March 21,

¹ Defendant filed his motion *ex parte*, apparently due to a concern regarding medical confidentiality, and he provided a hard copy of the motion to the Government. Defendant did not receive prior permission to file the motion on a sealed or *ex parte* basis, and the Court sees no reason for the motion to have been filed in that manner. Therefore, defendant is ordered to refile the motion, within five (5) days of the date of this Order, redacting only such information as constitutes personal identifying information, such as date of birth, social security number, address and the like.

² Defendant's counsel represented that Dr. Hunte was off-island until March 16, and was not available to attend the hearing.

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2012 (Exhibit B). Defendant will travel in the company of his third party custodian, Alicia Brooks.

The Government agreed that while it may be appropriate for defendant Brooks to receive an evaluation of his medical condition, it is concerned that the sentencing date of April 5, 2012 not be placed in jeopardy by such travel and evaluation.

The Court being thus informed and the premises considered, it is hereby recommended that the defendants' conditions of release be modified as follows:

1. Defendant shall be permitted to travel to Florida to attend his March 21, 2012 appointment with Dr. Jose E. Valerio Pascua at the Cleveland Clinic.

2. Defendant shall be permitted to travel to Florida on March 20, 2012, returning on March 24, 2012. Approval for any requested change in such schedule must be obtained in advance from the Court.

3. Unless defendant is admitted as an inpatient, he shall remain at all times in the company of his third-party custodian, Alicia Brooks.

4. Defendant shall restrict his movements to the hotel at which he will reside while in Florida, to the Cleveland Clinic, and to travel between those two locations and the destination airport.

5. Prior to departure, defendant shall provide to the Office of Probation complete details as to where he will be staying while in Florida, the exact address and contact information for the Cleveland Clinic, and all other information requested by the Office of Probation.

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6. The Office of Probation will coordinate with its counterpart in Florida to provide for temporary supervision of defendant while he is in Florida.
7. The defendant's current conditions of release shall resume upon his return to the Virgin Islands.

S_____
RUTH MILLER
U.S. Magistrate Judge

Failure to file written objections to the Report and Recommendation within fourteen (14) days from the date of its service shall bar an aggrieved party from attacking such Report and Recommendation before the assigned United States District Judge, 28 U.S.C. Section 636(b)(1)(B), LRCi. 72.3, 72.4.